

2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 YEMISI AKINYEMI,

PLAINTIFF,

-against-

6 MICHAEL CHERTOFF, Secretary,
7 Department of Homeland Security,

8 DEFENDANT.

9 DATE: October 29, 2007

10 TIME: 10:24 a.m.

12 EXAMINATION BEFORE TRIAL of the

13 Defendant, MICHAEL CHERTOFF, Secretary,

14 Department of Homeland Security, by GILBERT

15 PATRICK MURPHY, taken by the Plaintiff,

16 pursuant to Notice, held at the U.S. Attorney's

17 Office Southern District of New York, 86

18 Chambers Street, New York, New York 10007,

19 before a Notary Public of the State of New

20 York.

1 MURPHY

2 If I ask you a question and you
3 respond, I will assume that you fully
4 understood the question; is that fair enough?

5 A. Fine.

6 Q. Where is your place of birth?

7 A. Jersey City, New Jersey.

8 Q. And for the record, what is your
9 race?

10 A. White. Caucasian.

11 Q. And are you currently employed?

12 A. Yes.

13 Q. Who is your employer?

14 A. Department of Homeland Security.

15 Q. Any division of the Department of
16 Homeland Security, any particular unit?

17 A. Customs. Customs and Border
18 Protection.

19 Q. Thank you.

20 What's your highest level of
21 education?

22 A. High school.

23 Q. When did you first become employed
24 by the Customs and Border Protection, or its
25 predecessor agency?

1 MURPHY

2 A. Uh, February 26, 1971.

3 Q. And what was your title when you
4 were hired?

5 A. Sky marshal. Customs security
6 officer.

7 Q. And what's your current title?

8 A. They keep changing it so often.
9 The Department of Homeland Security
10 officer.

11 Q. And what are your duties in your
12 current title?

13 A. I'm the firearms instructor for
14 Newark, New Jersey. And collateral duties
15 is -- I'm try to, to -- property control
16 officer.

17 Q. And when you say, "property control
18 officer," what does that mean, what does it
19 entail?

20 A. Control of high-value merchandise
21 belonging to the government. Automobiles,
22 radios, radiation detectors, scopes, things
23 like that.

24 Q. And does firearms instructor mean
25 what it says?

1 MURPHY

2 A. Yes.

3 Q. And where is your current job
4 posting, what is your current job location?

5 A. 1200 Corbin Street -- 1210 Corbin
6 Street, in New -- Port Elizabeth.

7 Q. And that's in New Jersey?

8 A. That's correct.

9 Q. For how long have you been
10 operating out of 1210 Corbin Street?

11 A. Ten years.

12 Q. When did you become a Department of
13 Homeland Security officer?

14 A. I don't know what you mean.

15 The Department of Homeland Security
16 officer, the predecessor to that was customs
17 inspector. They were just absorbed into the
18 Department of Homeland Security after 9/11.
19 Now, it's the same position, same job, just a
20 different title.

21 Do you want Homeland Security when
22 it was created or when I had the job?

23 Q. I was actually just following up on
24 the title that you gave. I asked you what your
25 current title was.

MURPHY

1

2

A. Yes.

3

Q. And you said Department of Homeland

4

Security officer.

5

A. Yes.

6

Q. That is your current title?

7

A. That's correct.

8

Q. When did you start using that

9

title?

10

A. Okay, 2002.

11

Q. Is there such a title, that you are

12

aware of, that is known as senior customs and

13

border protection officer?

14

A. Not officially.

15

There were senior inspectors that

16

were absorbed into Homeland Security, they

17

still call them senior, but it no longer

18

applies.

19

Q. Is there any title, official title,

20

that you are aware of, that is known as customs

21

and border protection officer?

22

A. Yes.

23

Q. And did you ever occupy that title?

24

A. Yes.

25

Q. For what time period were you in

1 MURPHY

2 that title?

3 A. 2001, 2002.

4 Q. Did you ever use the title senior
5 customs and border protection officer at any
6 time?

7 A. Yes.

8 Q. For what time period did you use
9 that title?

10 A. 2001, 2002.

11 Q. 2001, 2002?

12 A. That's correct.

13 Q. In the year 2005, what title did
14 you use?

15 A. Department of Homeland Security
16 officer.

17 Q. And what grade level title is that?

18 A. GS 11.

19 Q. Are you still a GS 11?

20 A. Yes.

21 Q. Who is your current supervisor?

22 A. Deputy Edward Fox.

23 Q. For how long has Deputy Fox been
24 your supervisor?

25 A. Two years.

MURPHY

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Q. That would be starting from what year?

A. 2005.

Q. Do you remember what month in 2005?

A. No, I don't.

Q. Was it fall, summer --

A. In fall.

Q. Prior to Deputy Fox, who was your supervisor?

A. Uh, Deputy Robert Osgard, O-S-C-A-R-D.

Q. And do you know for what time period Deputy Osgard was your supervisor?

A. Well, eight years prior to 2001, so '93, '94.

Q. From '93 -- from are you saying --

A. 1993 to 2001 or 2002, whenever I went to work for Mr. Fox.

Q. Okay, let me just clear this up.

Is it 1992, 1993?

A. '93, '94, in there.

Q. Okay, between '93 and '94, you started working for Osgard?

A. That's correct.

1

MURPHY

2

Q. And you continued working for

3

him --

4

A. Until Mr. Fox took over for him?

5

Q. And I believe you testified that

6

you worked for Mr. Fox in 2005?

7

A. Okay, that would be it then. Yeah.

8

Q. I just wanted to be sure that

9

there's nobody in between Osgard and Fox.

10

A. No.

11

Q. Do you know Yemisi Akinyemi --

12

A. Yes.

13

Q. -- the plaintiff in this case?

14

A. Yes.

15

Q. How did you come to know her?

16

A. On the gun range and her office was

17

across the hall from the gun range in 1100

18

Raymond Boulevard.

19

Q. Have you ever been assigned to work

20

out of any of the airports?

21

A. No.

22

Q. Do you know where Cape Liberty

23

customs is located?

24

A. Yes.

25

Q. Where is it located?

1 MURPHY

2 A. Bayonne, New Jersey, the old MOTB
3 center.

4 Q. Sorry?

5 A. Bayonne, New Jersey. It was a
6 military base in Bayonne.

7 Military Ocean Terminal of Bayonne
8 is called MOTB.

9 Q. Have you ever been to the Liberty
10 Cruise terminal?

11 A. Yes.

12 Q. How often have you been there?

13 MR. CLOPPER: Objection. Compound.

14 Q. Have you been there more than one
15 occasion?

16 A. Yes.

17 Q. Have you been there this year?

18 A. No.

19 Q. Were you there in 2006?

20 A. No.

21 Q. Were you there in 2005?

22 A. Yes.

23 Q. What was the occasion for your
24 being there in 2005?

25 A. To clear passengers coming off a

1 MURPHY

2 cruise ship.

3 Q. To clear passengers coming off a
4 cruise ship?

5 A. That's correct.

6 Q. Who assigned you to clear
7 passengers coming off a cruise ship when you
8 went there?

9 A. Mr. Osgard's office.

10 Q. Do you recall whether this occasion
11 was fall, summer or something else?

12 A. Mostly the cruise ships come in in
13 the summer, from say May to October.

14 Q. Do you know who Dominic Calise is?

15 A. Yes.

16 Q. On the day that you went to clear
17 passengers, did you see Dominic Calise at the
18 location?

19 A. I don't know which day you are
20 speaking of.

21 We would go there maybe two or
22 three times a month. It's not that I went
23 there once. And each time you would go, it
24 would be a different supervisor. Calise is a
25 grade 12 supervisor.

1 MURPHY

2 Q. So, how many times would you say
3 that you went to clear passengers at the Cape
4 Liberty Cruise Terminal in the summer of 2005?

5 A. Okay, June, July, August,
6 September. Three times a month for the six
7 months. Eighteen.

8 Q. About eighteen times?

9 A. Yes.
10 Approximately.

11 Q. And on the occasions when you went
12 to clear passengers, were you in uniform?

13 A. Yes.

14 Q. Did you ever go to the cruise
15 terminal on the days that you were not on duty?

16 A. No.

17 Q. In the summer of 2005, did you ever
18 pick up any passenger from the cruise terminal?

19 A. Pick up, as such?

20 MR. CLOPPER: Objection.

21 Vague and ambiguous.

22 MR. OKOLI: Okay.

23 MR. CLOPPER: Go ahead.

24 Q. Do you recall whether in the summer
25 of 2005 any relation of yours traveled on a

1 MURPHY

2 cruise ship?

3 A. Yes.

4 Q. And who would that be?

5 A. My brother's widow, Eunice Murphy.

6 Q. Do you recall whether on any of the
7 occasions that you were present at the Liberty
8 Cruise Terminal whether Eunice Murphy came back
9 from a cruise?

10 A. Yes.

11 Q. Do you remember whether on any of
12 the other occasions that you went to the Cape
13 Liberty Cruise Terminal you ever saw Yemisi
14 Akinyemi at that location?

15 A. Yes.

16 Q. Do you recall how many times it was
17 that you saw Yemisi Akinyemi at the Cape
18 Liberty Cruise Terminal?

19 A. No, I don't.

20 Q. Do you recall ever seeing Yemisi
21 Akinyemi at the Liberty Cruise Terminal at the
22 same time that Dominic Calise was at that
23 location?

24 A. I don't recall.

25 Q. Do you recall ever having a

1 MURPHY

2 conversation with Dominic Calise in which he
3 indicated that he did not see your name on the
4 roster for the day and asked what you were
5 there for?

6 A. No.

7 Q. On the day that you Eunice Murphy
8 returned from a cruise, were you on duty on
9 that day?

10 A. Yes.

11 Q. Have you ever been to the Cape
12 Liberty Cruise Terminal in uniform on a day you
13 were not on duty?

14 A. No.

15 Q. Has anyone at customs CBP -- I will
16 use CBP for short.

17 A. Yes.

18 Q. Has anyone at CBP from 2005 to the
19 present time that you are sitting here before
20 me, has anyone from CBP questioned you
21 concerning whether or not you have been at Cape
22 Liberty Cruise Terminal in the summer of 2005
23 when you were not on duty?

24 A. No.

25 Q. Just to be clear, is it your